APPENDIX A

Judgment and Opinion of Connecticut Supreme Court

STATE OF CONNECTICUT

SUPREME COURT

AT HARTFORD

First Tuesday of December, 1972.

No. 7160

Housing Authority of the City of New Haven, a public body corporate and politic organized and existing under and in accordance with the provisions of the laws of the State of Connecticut and having its principal place of business in New Haven, Connecticut, and Polly Moorer and Joseph R. Peters, each of the City and County of New Haven

vs.

Donald T. Dorsey, Commissioner of the Department of Community Affairs of the State of Connecticut; Robert I. Berdon, Treasurer of the State of Connecticut; Adolph G. Carlson, Commissioner of Finance and Control of the State of Connecticut; Nathan G. Agostinelli, Comptroller of the State of Connecticut, and Bartholomew Guida, Mayor of the City of New Haven.

Judgment

This appeal by the plaintiffs from the judgment of the Superior Court for the County of New Haven at New

Haven was filed with the Clerk of said Court on the 1st day of December, 1971, and said appeal came thence to the 27th day of March, 1972, when the appellant filed his assignment of errors, as may appear in the certified transcript of record on file in this Court, and said appeal came thence to this Court at its term held at Hartford on the first Tuesday of April, 1972, and thence to the present term when the parties appeared and were fully heard.

And now this Court finds there is no error.

Whereupon it is adjudged that said judgment be confirmed and established and that the appellees recover of the appellants costs taxed at

Date of Judgment: January 18, 1973.

By the Court,

EDWARD HORWITZ
Clerk

Opinion

(34 Conn. L. J., No. 31, p. 1, January 30, 1973)

SUPREME COURT

DECEMBER TERM, 1972

HOUSING AUTHORITY OF THE CITY OF NEW HAVEN, *et al.* v. DONALD T. DORSEY, COMMISSIONER, DEPARTMENT OF COMMUNITY AFFAIRS, *et al.*

Action for a declaratory judgment determining whether tenants qualified as commissioners of a housing authority, for an injunction and other relief, brought to the Superior

Court in New Haven County and tried to the court, Wall, J.; the court rendered a declaratory judgment of the rights of the parties, from which the plaintiffs appealed. No error.

Ronald J. Fracasse, with whom were Donald E. Cobey and, on the brief, Charles W. Dibbell, for the appellants (plaintiffs).

John K. Jepson, assistant attorney general, with whom, on the brief, was Robert K. Killian, attorney general, for the appellees (named defendant *et al.*).

Bogdanski, J. In this action for a declaratory judgment and injunctive relief, the plaintiffs, the Housing Authority of the City of New Haven, Polly Moorer and Joseph R. Peters, are seeking an adjudication as to whether Moorer and Peters, tenants of the housing authority, are each legally qualified to hold the position of housing commissioner of the plaintiff housing authority. The trial court found that the plaintiff tenants are not legally qualified to hold these positions and rendered a declaratory judgment to that effect, from which the plaintiffs have appealed to this court.

In the first two assignments of error the plaintiffs claim: (1) that the court erred in refusing to find material facts set forth in certain paragraphs of the draft finding which they claim were admitted or undisputed and (2) that the court erred in finding facts contained in certain paragraphs of the finding without evidence. Since the plaintiffs failed to brief these assignments of error pertaining to the finding, they are treated as abandoned; *State* v. *Grayton*, 163 Conn. (33 Conn. L.J., No. 48, pp. 9, 10), *State* v. *Benson*, 153 Conn. 209, 217, 214 A.2d 903.

The remaining assignments of error challenge the conclusions reached by the court on the basis of facts found and present the basic issue as to whether the trial court erred in finding that a housing authority tenant may not

serve as a commissioner of that housing authority because such service would create a conflict of interest under § 8-42 of the General Statutes and under the common law.

The facts can be summarized as follows: On April 12, 1971, the attorney general of the State of Connecticut issued a legal opinion to the effect that the law bars a tenant of a housing authority from serving as a commissioner of the housing authority in whose project he resides. Based on this opinion the defendant Donald T. Dorsey, Commissioner of the Department of Community Affairs of the State of Connecticut, withheld substantial sums of money from the plaintiff housing authority because he felt that the board of commissioners of the housing authority was improperly constituted. This action then was instituted.

The plaintiff housing authority was organized and created by resolution of the board of aldermen of the City of New Haven pursuant to chapter 128 of the General Statutes, § 8-38 *et seq.* The plaintiff-tenants, Moorer and Peters, and the other commissioners of the plaintiff authority were appointed by the mayor of New Haven.

The plaintiffs claim that Moorer and Peters were eligible, under Connecticut law, to be appointed commissioners and, having been duly appointed, are legally qualified to act as commissioners in all respects, with the same powers and rights as commissioners who are not tenants of the housing authority. The plaintiffs further contend that by virtue of applicable federal housing statutes and contracts entered into thereunder, the constitutional doctrine of federal supremacy requires that Connecticut law bow to federal provisions which, they claim, provide that tenants shall be eligible to serve as commissioners of housing authorities. The plaintiffs further assert that constitutional provisions bar discrimination against tenants with respect to their eligibility to be appointed and serve as commissioners of public housing authorities.

The trial court concluded that tenants could control the operation of the plaintiff housing authority when a base quorum is present and the quorum includes the two tenant commissioners, that a conflict-of-interest problem exists even when only one commissioner is a tenant, and that this is so even though a tenant commissioner acts in good faith, since a person cannot serve himself as both landlord and tenant. The court further found that the failure of the legislature to amend § 8-42[1] after the date of the attorney general's opinion relating thereto was an acquiescence by the legislature to that opinion; that state law and local policy govern the question whether a tenant of a public housing authority, subsidized by federal funds, may at the same time be a commissioner of that housing authority, and that the provisions of 42 U.S.C. § 1401 do not prohibit the State of Connecticut from barring any person from serving as a commissioner of the plaintiff authority because of his tenancy in housing operated by that authority.

A housing authority is a public corporation created by the municipality to exercise certain delegated sovereign powers pursuant to §§ 8-40—8-81 of the General Statutes. It is governed by a board of five commissioners who are public officers. Three essential characteristics differentiate a public office from private employment: (1) an authority

1. "[General Statutes] Sec. 8-42. COMMISSIONERS AND EMPLOYEES TO HAVE NO INTEREST IN PROJECT. No commissioner or employee of an authority shall acquire any interest, direct or indirect, in any housing project or in any property included or planned to be included in any project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in any housing project, he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure so to disclose such interest shall constitute misconduct in office."

conferred by law; (2) a fixed term of office; and (3) the power to exercise some portion of the sovereign functions of government. An individual so invested is a public officer. *Kelly* v. *Bridgeport,* 111 Conn. 667, 670-71, 151 A. 268. His status forbids him from placing himself in a position where his private interest conflicts with his public duty. His good faith is of no moment because it is the policy of the law to keep him so far from temptation as to insure the exercise of unselfish public interest. *Low* v. *Madison,* 135 Conn. 1, 8, 60 A. 2d 774. This policy is not limited to a single category of public officer but applies to all public officials. *Id.,* 4-6. " 'Anything which tends to weaken . . . [public] confidence and to undermine the sense of security for individual rights . . . is against public policy.' " *Stocker* v. *Waterbury,* 154 Conn. 446, 454, 226 A. 2d 514.

Within the context of this common-law standard the General Assembly has provided by statute that no commissioner of a housing authority shall acquire any interest, direct or indirect, in any housing project. General Statutes § 8-42. An "interest" has been defined as having a share or concern in some project or affair, as being involved, as liable to be affected or prejudiced, as having self-interest, and as being the opposite of disinterest. *State* v. *Murtes,* 232 La. 486, 490, 94 So. 2d 446; see also *Swartout* v. *Holt,* 272 S.W. 2d 756, 761 (Tex. Civ. App.).

The interests of a housing authority commissioner would center on the points at which management policies and functions of the authority come into contact with individual tenants. These include the selection and retention of tenants, the determination of rents to be charged, the services and other benefits to be furnished, and the enforcement of the rules governing the conduct and rights of the tenants. In fixing rents the commissioners must consider the payments on the principal and interest on the bonded indebted-

ness, the cost of insurance and administrative expenses, the amounts to be set aside in reserve for repair, maintenance and replacements, and vacancy and collection losses. General Statutes §§ 8-45, 8-72.

The task of fixing rent charges is such that a tenant commissioner might be called to vote to increase his own rent in order to amortize and service the authority's debt obligation. If he is reluctant to increase rents which include his own, the housing authority might fail to pay its bonded indebtedness and permit unchecked physical depreciation of the properties. Matters on which the housing authority votes include the setting and the enforcing of its policies as to delinquent rents and the eviction of tenants. As a housing authority commissioner, a tenant would also be required to participate in voting on decisions involving the hiring and firing of housing authority personnel who deal with him and his family from day to day.

Thus, whether or not the tenant as a housing authority commissioner is in fact benefiting himself individually by his vote, his personal interests are always directly or indirectly involved in his vote on the commission. This is not to say that his personal interests are inevitably and on all occasions antagonistic to the interests of the housing authority. The fact, however, that he is a tenant makes it possible for his personal interests to become antagonistic to the faithful discharge of his public duty. 10 McQuillin, Municipal Corporations (3d Ed.Rev.1966) § 29.97.

It is thus clear that tenants, acting as housing authority commissioners, could control the operations of a housing authority. We, however, construe the legislature's failure to amend § 8-42 after the attorney general's opinion that the statute barred tenants from being commissioners as an indication of legislative intent that tenants should not be

placed in a position where they could control housing authorities in whose properties they were tenants.

As already noted, the plaintiffs have strongly urged that federal law and regulation not only authorize but require that tenants be eligible to serve as commissioners on local housing authorities.[2] The plaintiffs have been unable, however, to produce any evidence to support this claim. In fact, the plaintiffs' evidence demonstrated that local policies and laws govern. Section 1401 of 42 U.S.C., entitled "Declaration of policy," purports to "vest in the local public housing agencies the maximum amount of responsibility." The addition of the sense of Congress to § 1401 on December 31, 1970, did not eliminate the above quoted policy nor did it impose any mandatory requirement.

This claim, and the assertion that constitutional provisions require that tenants be not discriminated against and treated differently from other persons with respect to their eligibility to be appointed and serve as commissioners of public housing authorities, are without merit.

Since the unchallenged findings of fact amply support the conclusions reached by the trial court, the judgment rendered by it cannot be disturbed.

There is no error.

In this opinion the other judges concurred.

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2. The following "Policy Statement" is now incorporated into § 1 of Chapter 896 of the United States Housing Act of 1937, 50 Stat. 888 as amended, having been added by § 211 of the Housing and Urban Development Act of 1970 (P.L. 91-609, Laws of the 91st Congress, Second Session, approved December 31, 1970, 84 Stat. 1799, 42 U.S.C. § 1401):

> "It is the sense of the Congress that no person should be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a low-rent housing project."

APPENDIX B

Judgment and Opinion of Connecticut Superior Court

STATE OF CONNECTICUT

SUPERIOR COURT

COUNTY OF NEW HAVEN

At New Haven November 17, 1971

No. 12 71 35

Housing Authority of the City of New Haven, a public body corporate and politic organized and existing under and in accordance with the provisions of the laws of the State of Connecticut and having its principal place of business in New Haven, Connecticut, and Polly Moorer and Joseph R. Peters, each of the City and County of New Haven

vs.

Donald T. Dorsey, Commissioner of the Department of Community Affairs of the State of Connecticut; Robert I. Berdon, Treasurer of the State of Connecticut; Adolph G. Carlson, Commissioner of Finance and Control of the State of Connecticut; Nathan G. Agostinelli, Comptroller of the State of Connecticut, and Bartholomew Guida, Mayor of the City of New Haven

Present, Hon. ROBERT A. WALL, Judge

Judgment

This action, by writ and complaint dated May 6, 1971, claiming therein as follows:

"1. A declaratory judgment determining whether or not:

(a) the plaintiffs Polly Moorer and Joseph R. Peters, being tenants of plaintiff Housing Authority, are validly appointed and duly qualified commissioners of said Housing Authority, with the full and unrestricted rights and powers of that office;

(b) a tenant of the plaintiff Housing Authority may be a commissioner of the Housing Authority, with the full and unrestricted rights and powers of that office, if duly appointed by the appointing authority;

(c) a tenant of a housing authority in Connecticut may be a commissioner of that housing authority, with the full and unrestricted rights and powers of that office, if duly appointed by the appointing authority.

2. A permanent injunction directing Donald T. Dorsey, Commissioner of the Department of Community Affairs of Connecticut, Robert I. Berdon, Treasurer of Connecticut, Adolf G. Carlson, Commissioner of Finance and Control of Connecticut, and Nathan G. Agostinelli, Comptroller of Connecticut, not to refuse to honor, recognize and perform all presently existing and future agreements, contracts and grants, and applications therefor, relating to the Housing Authority of the City of New Haven on the ground that one or more commissioners of said Housing Authority are tenants of said Housing Authority.

3. Such other relief as to equity may appertain."

came to this Court on the fourth Tuesday of May, 1971, and thence to June 16, 1971 when the Court, on plaintiffs' motion, ordered that notice of the institution and pendency of this action be given to the parties, as on file, and thence

to the present time when the parties appeared and were at issue to the Court, as on file.

The Court, having heard the parties, finds that notice of the institution and pendency of this action was given to all persons having an interest in the subject matter of said complaint in addition to the parties to this action, and further finds the issues for the defendants.

Whereupon it is adjudged and decreed as a declaratory judgment of the rights of the parties that:

(1) The plaintiffs Polly Moorer and Joseph R. Peters, by reason of being tenants of the plaintiff Housing Authority, have acquired a direct or indirect interest therein and do not qualify as commissioners of said Housing Authority under Section 8-42 of the General Statutes.

(2) Even if duly appointed by the appointing authority a tenant of the plaintiff Housing Authority under Section 8-42 of the General Statutes may not be a commissioner of the Authority.

(3) Even if duly appointed by the appointing authority a tenant of a Housing Authority in Connecticut may not be a commissioner of that housing authority with the full and unrestricted rights and powers of that office by virtue of the disqualification provisions of Section 8-42 of the General Statutes.

And it is further adjudged that the plaintiffs are not entitled to any injunctive relief.

WALL,
Judge

Opinion

MEMORANDUM OF DECISION

This is an action for a declaratory judgment and for certain claimed injunctive relief. The plaintiffs are Housing Authority of the City of New Haven and Polly Moorer and Joseph R. Peters, who are commissioners and also tenants of the Authority. The defendants are Donald T. Dorsey, Commissioner of the Department of Community Affairs of the State of Connecticut and certain other officials of the State of Connecticut, and the Mayor of the City of New Haven.

The action was instituted as a result of the legal opinion of the Attorney General of the State of Connecticut that Connecticut law "bar[s] a tenant of a Connecticut housing authority from serving as a commissioner of the housing authority in whose project he resides." [Letter to Commissioner Dorsey dated April 12, 1971, Plaintiffs' Exhibit F.] Based upon this opinion the Connecticut Department of Community Affairs has withheld substantial sums from the plaintiff Housing Authority because Commissioner Dorsey feels that the board of commissioners of the Authority is improperly constituted, as stated in the Attorney General's opinion.

Plaintiff Housing Authority was organized and created by resolution of the Board of Aldermen of the City of New Haven adopted July 11, 1938, pursuant to the provisions of Chapter 33c of the 1937 Supplement to the General Statutes of Connecticut, which, as amended, is now contained in Chapter 128 of the General Statutes. (§§ 8-38 et seq.) Plaintiffs Moorer and Peters and the other present commissioners were appointed by the Mayor of the City of New Haven.

After service of the original complaint, pursuant to an order of notice signed by a judge of this court, notice of this action was given by publication in newspapers circulated generally in all parts of the State where housing authorities are located. The notice was addressed to public housing authorities, tenants thereof, chief executive officers of municipalities in the State of Connecticut other than towns, governing bodies of towns, and taxpayers. It is clear that this notice was directed properly to all the persons having an interest in the subject matter of this complaint in addition to the parties to this action.

The plaintiffs claim that the individual plaintiffs Moorer and Peters were eligible, under Connecticut law, to be appointed as commissioners of the plaintiff Authority and, having been duly appointed by the authorized appointing official—the Mayor of the City of New Haven—are legally qualified to act as such commissioners in all respects, with the same powers and rights as commissioners who are not tenants of such Authority. The plaintiffs further claim that, by virtue of applicable Federal housing statutes and actions taken and contracts entered into thereunder, the constitutional doctrine of federal supremacy requires that the Connecticut law must in any event bow to Federal provisions which they claim provide that tenants shall be eligible to serve as commissioners of housing authorities which are financially assisted by the Federal government, as is the plaintiff Authority. The plaintiffs also contend that constitutional provisions and principles require that tenants may not be discriminated against and treated differently from other persons in respect of their eligibility to be appointed and serve as commissioners of public housing authorities.

The pertinent statute is as follows:

"Sec. 8-42. *Commissioners and employees to have no interest in project.* No commissioner or employee of an authority shall acquire any interest, direct or indirect, in any housing project or in any property included or planned to be included in any project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of an authority owns or controls an interest, direct or indirect, in any property included, or planned to be included in any housing project, he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure so to disclose such interest shall constitute misconduct in office."

The following principles of our case law are applicable to the situation at hand:

"The issue of disqualification is governed by the criteria enumerated in *Low* v. *Madison,* 135 Conn. 1. The principles of law are not restricted to zoning boards. They apply to the exercise of powers of all municipal agencies and boards which affect property rights in the community. His status forbids the public officer from placing himself in a position where his private interest conflicts with his public duty." *Stocker* v. *Waterbury,* 154 Conn. 446, 454.

"A public official owes an undivided duty to the public whom he serves, and he is not permitted to place himself in a position which would subject him to conflicting duties or expose him to the temptation of acting in any manner other than in the best interest of the public. A man cannot serve two masters at the same time and the public interest should not be entrusted to an official who has a pecuniary,

personal or private interest, which is or may be in conflict with the public interest." *Genkinger* v. *New Castle,* 368 Pa. 547; 84 A.2d 303.

"A beneficial interest disqualifies like a technical interest. The statute speaks of interest generally as a disqualification." *Hawley* v. *Baldwin,* 19 Conn. 584, 589. "One ought not to be a judge in his own case is a principle of natural justice." *Ellis* v. *Emhart,* 150 Conn. 501, 505.

"It is the policy of the law to keep the official so far from temptation as to ensure his unselfish devotion to the public interest." *Mills* v. *Town Plan,* 144 Conn. 493, 498.

Our courts have stressed that public officials shall avoid not only real conflicts of interest but apparent conflicts as well. Where public confidence is at issue, what people think is true may be as important as what is true.

"As in all conflict of interest situations the proper test is not whether an actual conflict exists but whether the possibility of a conflict exists." See *Ins. Dept.* v. *Johnson,* 248 A.2d 308, 311.

"A personal interest which will interfere with the unbiased discharge of the officer's duty to the public may render one ineligible." § 12.48 McQuillin on Municipal Corporations, page 265; *Raymond* v. *Bartlett,* 175 P.2d 288.

Plaintiffs' Exhibit D was Section 4 of Article III of the By Laws of the New Haven Housing Authority. That section provides that three commissioners shall constitute a quorum. In their complaint the plaintiffs allege that two of the five commissioners are tenants of the housing authority which they serve. Thus it can be seen that tenants can control the operation of the New Haven Housing Authority when a bare quorum is present, which quorum includes the two tenant commissioners.

It is not important whether this will happen, but it is important that it can happen. The conflict of interest prob-

lem exists even where only one commissioner is a tenant. The tenant vote could be decisive on any particular issue. Even if the tenant did not vote, his arguments could have been the deciding factor. Perhaps the tenant could avoid all participation. This, however, would be a total disregard of his duty as a public official.

It appears in Connecticut that a tenant cannot legally serve as a housing authority commissioner. Whether or not the tenant acts in total good faith is unimportant. Whether he runs afoul of Section 8-42, Connecticut General Statutes, or the well-imbedded common law concepts of conflict of interest, or both, is unimportant. He simply cannot serve two masters—himself as landlord and himself as tenant. The relationship is such a close one that disqualification is conclusively and irrebuttably presumed where a juror stands to either litigant in relation of landlord and tenant. *McCarten* v. *Connecticut Company,* 103 Conn. 537. The statute in question is designed to cover a situation similar to that in General Statutes § 10-232. The relationship is not a remote or nebulous interest as claimed by the plaintiffs in referring to *Anderson* v. *Zoning Commission,* 157 Conn. 285, 291.

A concise enumeration of the powers and duties of the commissioners which could bring about conflicts of interest is set forth on the third page of the attorney general's opinion. Exhibit F. Attempts have been made to amend the statute in the general assembly but without avail.

"Where legislature has failed over a long period to make any change in a statute following its interpretation by the attorney general, it amounts to an acquiescence worthy of careful consideration in an inquiry into the intention of that body." *School Districts* v. *Cook,* 424 P.2d 751, 756.

The remaining claims of the plaintiffs require little consideration. The reading of Plaintiffs' Exhibits A (HUD

Circular 7401.1 dated 7/14/70), B (HUD Circular dated 1/28/71 (which supplements Exhibit A)) and C (42 USCA § 1401.1 as amended December 31, 1970, Pub. L. 91-609) demonstrates that the federal government is not opposed to having tenants serve as commissioners and in fact encourages such service. These exhibits also make clear the fact that state law and local policy control and that the federal government clearly recognizes this fact. The inescapable conclusion is that the language is precatory and does not command. As a constitutional matter equal protection does not require a person to be treated in the same manner as persons in another classification.

It is not the province of the court to determine what matters a tenant commissioner could or could not resolve or act upon. Such standards are the prerogative of the legislative department.

Claims for injunctive relief are denied.

A declaratory judgment may enter that:

(1) The plaintiffs Polly Moorer and Joseph R. Peters, by reason of being tenants of the plaintiff Housing Authority, have acquired a direct or indirect interest therein and do not qualify as commissioners of said Housing Authority under Section 8-42 of the General Statutes.

(2) Even if duly appointed by the appointing authority a tenant of the plaintiff Housing Authority under Section 8-42 of the General Statutes may not be a commissioner of Authority.

(3) Even if duly appointed by the appointing authority a tenant of a Housing Authority in Connecticut may not be a commissioner of that housing authority with the full and unrestricted rights and powers of that office by virtue of the disqualification provisions of Section 8-42 of the General Statutes.

WALL, J.

(Filed: 11-17-71)

APPENDIX C

[LETTERHEAD OF]
NATIONAL ASSOCIATION OF HOUSING AND REDEVELOPMENT OFFICIALS

May 23, 1973

Mr. Charles W. Dibbell
Stoddard, Persky, Eagan & Cobey
205 Church Street
New Haven, Connecticut 06506

Dear Mr. Dibbell:

Here are some responses to the questions raised in your letter of May 3.

1. *The number of local housing authorities:* As of June 30, 1972, 2,460 local housing authorities had units *under management* in 3,371 localities. The total number of local housing authorities including those with *no units* in management is about 3,300.

2. *Local housing authorities now operate in all 50 States.* In some States, the only public housing is housing on Indian Reservations where the Tribe is the local authority.

3. *The total number of housing units operated* by the 2,460 housing authorities as of June 30, 1972 was *1,019,481.*

4. The total number of units in operation as of June 30, 1972 housed *3.3 million persons, including 1.9 million minors.*

In response to your question to States which may specifically authorize tenants as commissioners, my recollection is that Michigan does; and that Rhode Island had such a provision which was overturned by the court. Most State laws did not specifically mention eligibility of tenants to become commissioners, prior to 1970. In that year, the Congress added a sentence to the national housing act stating that: "It is the sense of the Congress that no person should be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a low rent housing project." This federal action spurred changes in some State laws. However, we have no complete list of these actions.

The source for the data in connection with question 1-4 is the Appropriations testimony of the Secretary of HUD, May, 1973.

I hope that this information is helpful to you.

Sincerely,

Mary K. Nenno
Director, Policy and Research

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APPENDIX D

Excerpts from PRINTED RECORD in Court Below (Finding)

FOURTH: The plaintiff made the following claims of law respecting the judgment to be rendered, upon which the Court ruled as hereinafter stated.

95. Polly Moorer is duly appointed, qualified and acting Commissioner of the Housing Authority with the full and unrestricted rights and powers of that office despite the fact she is a tenant of the Housing Authority of which she is commissioner.

96. Joseph R. Peters is duly appointed, qualified and acting Commissioner of the Housing Authority with the full and unrestricted rights and powers of that office despite the fact he is a tenant of the Housing Authority of which he is a commissioner.

97. Polly Moorer and Joseph R. Peters have the right under the Constitution and laws of the United States and of the State of Connecticut to be Commissioners of the Housing Authority, in which they are tenants, as any other eligible persons who are not tenants.

98. The Housing Authority has the same right, as any housing authority, none of whose commissioners is a tenant of such authority, under the Constitution and Laws of the United States and of the State of Connecticut to:

(a) continue its day to day operation of moderate rental and low income housing projects and other activities and services in accordance with the laws of the United States and the State of Connecticut;

(b) plan and develop the construction and financing of said projects, activities and services;

(c) issue and sell its bonds or notes for the aforesaid purposes;

(d) enter into valid contracts;

(e) submit valid applications for grants, loans and advances, and validly enter into agreements for grants, loans and advances, for said purposes from the State of Connecticut and the Federal Government and their respective officials, agencies and departments.

99. A tenant of the Housing Authority may be a commissioner of the Housing Authority, with the full and unrestricted rights and powers of that office, if duly appointed by the appointing authority, and if otherwise eligible.

100. A tenant of a housing authority in Connecticut may be a commissioner of that housing authority, with the full and unrestricted rights and powers of that office, if duly appointed by the appointing authority, if otherwise eligible.

101. Under Section 8-56 of the Connecticut General Statutes, every authority is authorized to "do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation, of any housing project by such authority."

102. Under Section 8-41 of the Connecticut General Statutes there is no prohibition against a tenant of a housing authority being a commissioner of that same housing authority.

103. Section 515 of Part Two of the Annual Contributions Contract between the Housing Authority of the City of New Haven and the United States of America does not prohibit a tenant of a housing authority from being a commissioner of that same housing authority.

104. Section 8-42 of the Connecticut General Statutes does not prohibit a tenant of a housing authority from being a commissioner of that same housing authority.

105. 42 U.S.C. Sec. 1401 prohibits a person from being barred from serving as a commissioner of a local public housing authority because of his tenancy in that housing authority.

106. The Circulars of HUD (RHM 7401.1 dated 7/14/70 and 1/28/71) follow the federal policy stated in 42 U.S.C. Section 1401 and direct local housing authorities to follow that policy.

107. The Supremacy Clause of the Federal Constitution, Article VI, Clause 2, requires that policy stated in 42 U.S.C. Section 1401 be followed by each local housing authority, including the plaintiff Housing Authority.

108. If any law of Connecticut forbids a tenant of a housing authority from being a commissioner of that same housing authority, that law must give way to the federal policy stated at 42 U.S.C. Section 1401 and be declared null and void by virtue of the Supremacy Clause of the Federal Constitution.

109. Under the provisions of the Fourteenth Amendment to the Federal Constitution relating to privileges and immunities, equal protection and due process, a tenant of a housing authority has the right to be a commissioner of that same housing authority. Notwithstanding said claims the Court rendered judgment as on file."

APPENDIX E

Provisions of the Constitution of the United States Which the Case Involves

1. ARTICLE VI, Clause 2

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

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2. FOURTEENTH AMENDMENT

> Section 1 . . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.